FILED
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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

IN RE MARRIAGE OF
MARY HELEN WILLCOX AND GARRY PAUL WILLCOX

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Upon the Petition of)
MARY HELEN WILLCOX,)
Petitioner-Appellant,)
And Concerning)
GARRY PAUL WILLCOX,) 8-303 / 87-1540
Respondent-Appellee.)

Appeal from the Iowa District Court for Marshall County (D-4330), Louie F. Beisser, Judge.

Petitioner appeals from the provision of a dissolution decree awarding physical care of the parties' minor children to the respondent. **AFFIRMED.**

Gail E. Boliver, Marshalltown, for petitioner-appellant.

James C. Ellefson of Welp, Harrison, Brennecke & Moore, Marshalltown, for respondent-appellee.

Michael J. Moon, Marshalltown, guardian ad litem for the children.

Considered by Hayden, P.J., and Sackett and Habhab, JJ.

HAYDEN, P.J. 420

Mary Willcox appeals from the provision of a dissolution decree giving physical care of the parties' minor children to their father, asserting the best interests of the children compel awarding her physical custody. For the reasons set out below, we affirm the decision of the district court.

I.

Mary wed Garry Willcox in 1967. They are the parents of three children: Colleen, born October 12, 1968; Heather, born April 2, 1974; and Clinton, born August 6, 1979.

Garry worked for Northwestern Bell from 1967 until 1980 when he was laid off due to the company's reorganization. Following his employment with Northwestern Bell, he worked at numerous jobs until he accepted employment with Universal Communications of Iowa City, a company responsible for servicing the University of Iowa telephone system. Mary worked prior to, and during the early years of the marriage. She became a full-time homemaker in 1973. After Garry was laid off, the family suffered financial difficulty and, out of necessity, Mary went to work in 1982 at the Marshalltown Medical and Surgical Center.

The family moved to Albion in 1976 when Garry was transferred to Marshalltown. Since the temporary custody hearing in November of 1986, the children have been living with Mary in the family home in Albion.

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The dissolution decree of October 29, 1987, awarded the parties' joint custody, with primary physical care to Garry, but Mary has requested and received a stay of that decree pending the outcome of this appeal.

II.

Mary contends the physical care of the children was awarded to Garry on the basis of moral judgments by the court that are contrary to Iowa law and the evidence presented. In addition, she argues that because of Garry's bad temper, the children would be better off with her.

In response, Garry argues that the court did not base its decision on Mary's misconduct but accurately determined that in recent years Mary has put her own comfort and welfare ahead of her concern for the children, while Garry has made the children's welfare his first priority.

Our scope of review is de novo in dissolution proceedings. Iowa R. App. P. 4. While we give weight to the fact findings of the trial court, especially considering the credibility of witnesses, we are not bound by them. Iowa R. App. P. 14(f)(7); In re Marriage of Vrban, 359 N.W.2d 420 (Iowa 1984).

III.

1. **Physical Care.** The controlling consideration in determining custody is the best interests of the child. Iowa R. App. P. 14(f)(15); In re Marriage of Ullerich, 367 N.W.2d 297, 299 (Iowa App. 1985). As with all child

custody determinations, precedent is of little value, and therefore our decision must ultimately depend on the particular facts in each case. In re Marriage of Vrban, 359 N.W.2d 420, 423 (Iowa 1984). Our determination of custody is most clearly directed by determining which parent can minister more effectively to the long-range best interests of the children. Marriage of Winter, 223 N.W.2d 165, 166 (Iowa 1974). The factors we look to in making this determination are set forth in Iowa Code section 598.41(3) (1987).

There is strong evidence in the record both parties are quite capable of attending to the children's day-to-day needs. We do not make these decisions lightly, and in cases like this one, where it is clear both parents love their children and the children love them, our decision is made more difficult. However, after a painstaking review of the record in light of the foregoing factors, we believe the children's best long-term interests will be served by giving primary physical care to Garry.

As we have noted, there are strong arguments on both sides why one parent or the other should be given physical custody. The evidence indicates all the children are well adjusted, popular, and do well in school--a fact showing both parties are fine parents. Mary and Garry are also considered nurturing and attentive parents by their neighbors. Some believed Garry to be an excessively strict

disciplinarian, but there is nothing in the record to indicate he used excessive physical force in disciplin- ing the children and further, a problem Garry was having controlling his emotions was caused by a prescription drug. Since the drug has been abandoned, Garry is in better control of his emotions. In addition, testimony indicated over the past several years Garry has become more attentive and involved in his children's interests and activities and has developed a strong relationship, especially with Heather and Clinton.

On the other hand, Mary also enjoys a close and loving relationship with her children. She was the primary care taker of the children until she went back to work in 1982, at which point both parties shared equally in the day-to-day tasks of child care. Evidence adduced at trial indicates since Mary has gone back to work, her priorities have been altered. It is clear Mary felt stifled in her role as a full-time homemaker. After she returned to work she found other interests and new friends. During this period, the time she had for the children decreased. She was not as attentive to their needs as she had been in the past and from time to time showed indifference to the children's needs by placing her own interests ahead of the children.

Mary asserts the trial court impermissibly used Mary's "moral misconduct" as the determinative factor in giving

physical custody to Garry. We disagree. Iowa Code section 598.41(3) (1987) makes it clear that moral conduct of the parties is a consideration, but only a considera- tion. Such conduct alone is not dispositive. The trial court, like this court, has taken all relative factors into consideration in making its decision. We do not believe any single factor was accorded inordinately greater weight than others. Our review, therefore, does not compel us to modify the decree of the trial court. We believe the needs of the children--both present and long term--are best served if physical care is given to Garry.

2. **Disposition of Family Home**. We agree because of our disposition of this matter, the family home should be sold and the net proceeds from the sale should be divided equally between the parties.

AFFIRMED.